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Attorneys for Defendant / Third-Party Plaintiff, WESTCHESTER SURPLUS LINES INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

SIERRA BAY CONTRACTORS, INC.,  
A California Corporation,  
Plaintiff,  
vs.  
WESTCHESTER SURPLUS LINES  
INSURANCE COMPANY, a Georgia  
corporation, and DOES 1 through 50,  
inclusive,  
Defendants.  
AND RELATED CROSS-ACTIONS )  
CASE NO.: 3:10-cv-04611-RS  
STIPULATION AND [PROPOSED]  
ORDER FOR DISMISSAL OF ASPEN  
SPECIALTY INSURANCE COMPANY  
WITH PREJUDICE

Pursuant to F.R.C.P. 41, Defendant and Third-Party Plaintiff, Westchester Surplus Lines Insurance Company (“Westchester”), and Third-Party Defendant, Aspen Specialty Insurance Company (“Aspen Specialty”), have agreed and hereby stipulate to the dismissal of Aspen Specialty, from Westchester’s First Amended Third-Party Complaint, with prejudice, subject to said parties’ mutual waiver of costs. Said parties request the Court’s approval and execution of the below proposed order for dismissal.

1           **IT IS SO STIPULATED.**

2  
3           DATE: December 21, 2012

LAW OFFICES OF SAMUEL F. BARNUM

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5           By: /s/ Samuel F. Barnum  
6           SAMUEL F. BARNUM  
7           Attorneys for Third-Party Defendant,  
8           ASPEN SPECIALTY INSURANCE COMPANY

9           DATE: December 21, 2012

MORALES, FIERRO & REEVES

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11          By: /s/ David Astengo  
12          DAVID A. ASTENGO  
13          Attorneys for Defendant and Third-Party  
14          Plaintiff, WESTCHESTER SURPLUS LINES  
15          INSURANCE COMPANY

**[PROPOSED] ORDER OF PARTIAL DISMISSAL**

Having reviewed the above stipulation, the Court orders that Defendant and Third-Party Plaintiff, Westchester Surplus Lines Insurance Company's, First Amended Third-Party Complaint against Third-Party Defendant, Aspen Specialty Insurance Company, be dismissed, with prejudice. The remainder of Westchester Surplus Lines Insurance Company's First Amended Third-Party Complaint shall not be changed or impacted by this Order.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Date: 12/21/12

  
HONORABLE RICHARD SEEBORG  
United States District Court  
Northern District of California